

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

TEJAS TOBACCO a/k/a THE TOBACCO)	
SHOP, LLC,)	
)	
Plaintiff,)	
v.)	No. 1:22-cv-1157-STA-jay
)	
STATE AUTOMOBILE INSURANCE)	
COMPANY,)	
)	
Defendant.)	

**ORDER OF REFERENCE FOR DETERMINATION
ORDER GRANTING DEFENDANT’S REQUEST FOR ATTORNEY’S FEES**

On March 28, 2023, the Court granted Defendant State Automobile Insurance Company’s Motion to Compel (ECF No. 24) and gave Plaintiff Tejas Tobacco a/k/a The Tobacco Shop, LLC until April 4, 2023, to provide Rule 26(a) initial disclosures. The Court cautioned Plaintiff that “[f]ailure to comply will result in more serious sanctions, up to and including dismissal of Plaintiff’s suit without further notice.”¹ The Court also ordered Plaintiff to show cause as to why the Court should not grant Defendant’s request for an award of its reasonable attorney’s fees. The Court ordered Plaintiff to file a written brief on the attorney’s fee issue by the close of business on April 6, 2023. Plaintiff did not file a response.

When a court grants a motion to compel, Rule 37 states that “the court must, after giving an opportunity to be heard, require the party . . . whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant’s reasonable expenses incurred in

¹ Defendant has now filed a Motion for Sanctions, arguing that Plaintiff did not comply with the Court’s order.

making the motion, including attorney's fees." Fed. R. Civ. P. 37(a)(5)(A). For the reasons stated in Defendant's Motion to Compel and in the absence of any response from Plaintiff, the Court hereby grants Defendant's request for attorney's fees. Defendant has not submitted any proof to establish the amount of the award it seeks.

The Court therefore refers the issue of the amount of attorney's fees and whether Plaintiff, counsel, or both should be liable for the fees to the United States Magistrate Judge for determination. Any objections to the Magistrate Judge's order shall be made within fourteen (14) days after service of the order, setting forth particularly those portions of the order objected to and the reasons for the objections. Failure to timely assign as error a defect in the Magistrate Judge's order will constitute a waiver of that objection. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(a).

IT IS SO ORDERED.

s/ S. Thomas Anderson
S. THOMAS ANDERSON
UNITED STATES DISTRICT JUDGE

Date: April 12, 2023